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110TH CONGRESS
2D SESSION

H. R. 5317

To amend part D of title XVIII of the Social Security Act to limit the increase in premium costs for beneficiaries under the Medicare prescription drug program to no more than the Social Security cost-of-living adjustment, and to direct the Secretary of Health and Human Services to negotiate lower prescription drug prices on behalf of Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2008

Mr. WEXLER introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend part D of title XVIII of the Social Security Act to limit the increase in premium costs for beneficiaries under the Medicare prescription drug program to no more than the Social Security cost-of-living adjustment, and to direct the Secretary of Health and Human Services to negotiate lower prescription drug prices on behalf of Medicare beneficiaries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Prescription Drug Affordability Act of 2008".

SEC. 2. LIMITING MEDICARE PART D COST INCREASES TO THE SOCIAL SECURITY COST-OF-LIVING INCREASE.

(a) IN GENERAL.—Section 1860D–11(e)(2) of the Social Security Act (42 U.S.C. 1395w–111) is amended by adding at the end the following new subparagraph:

"(E) BID AMOUNT INCREASE BY NO MORE THAN SOCIAL SECURITY COST-OF-LIVING INCREASE.—

"(i) IN GENERAL.—The Secretary determines that the amount of the bid submitted for the plan year under subsection (b) is not greater than—

"(I) the amount of the bid approved for such plan for the previous plan year, increased by

"(II) the SS COLA percentage.

"(ii) EXCEPTION FOR A PLAN WITH NO PREVIOUS PLAN YEAR.—The requirement of clause (i) shall not apply with respect to a plan for which there was no previous plan year.

"(iii) SS COLA PERCENTAGE DEFINED.—For purposes of this subparagraph, the term 'SS COLA percentage' with respect to a plan year in a calendar year is the percentage increase under section 215(i) in primary insurance amounts effective for December of the second previous calendar year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to plan years beginning on or after January 1, 2009.

SEC. 3. NEGOTIATION OF LOWER COVERED PART D DRUG PRICES ON BEHALF OF MEDICARE BENEFICIARIES.

(a) NEGOTIATION BY HHS.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and inserting the following:

"(i) NEGOTIATION OF LOWER DRUG PRICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall negotiate with pharmaceutical manufacturers the prices (including discounts, rebates, and other price concessions) that may be charged to PDP sponsors and MA organizations for covered part D drugs for part D eligible in-

1 dividuals who are enrolled under a prescription drug
2 plan or under an MA–PD plan.
3 "(2) NO CHANGE IN RULES FOR
4 FORMULARIES.—
5 "(A) IN GENERAL.—Nothing in paragraph
6 (1) shall be construed to authorize the Sec-
7 retary to establish or require a particular for-
8 mulary.
9 "(B) CONSTRUCTION.—Subparagraph (A)
10 shall not be construed as affecting the Sec-
11 retary's authority to ensure appropriate and
12 adequate access to covered part D drugs under
13 prescription drug plans and under MA–PD
14 plans, including compliance of such plans with
15 formulary requirements under section 1860D–
16 4(b)(3).
17 "(3) CONSTRUCTION.—Nothing in this sub-
18 section shall be construed as preventing the sponsor
19 of a prescription drug plan, or an organization offer-
20 ing an MA–PD plan, from obtaining a discount or
21 reduction of the price for a covered part D drug
22 below the price negotiated under paragraph (1).
23 "(4) SEMI-ANNUAL REPORTS TO THE CON-
24 GRESS.—Not later than June 1, 2008, and every six
25 months thereafter, the Secretary shall submit to the

Committees on Ways and Means, Energy and Commerce, and Oversight and Government Reform of the House of Representatives and the Committee on Finance of the Senate a report on negotiations conducted by the Secretary to achieve lower prices for Medicare beneficiaries, and the prices and price discounts achieved by the Secretary as a result of such negotiations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall first apply to negotiations and prices for plan years beginning on January 1, 2009.

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